REMARKS

Claims 1-14 are currently pending in the application. No changes to the claims have been made.

Formal drawings are being submitted concurrently herewith under separate cover. The Examiner's review and approval of the formal drawings is respectfully requested.

Applicants note that an information disclosure statement (IDS) was filed with the original application on December 29, 1999. However, a copy of the PTO-1449 initialed by the Examiner was not received by the Applicants with the office action. Accordingly, it is respectfully requested that the Examiner provide an initialed copy of the PTO 1449 with the next PTO correspondence. In the event that the aforementioned IDS was lost, enclosed please find a copy of the submitted IDS together with a receipt card showing the receipt of the IDS at the PTO.

Claims 1-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (U.S. Patent No. 5,757,917) in view of various Official Notice positions taken by the Examiner. This rejection is respectfully traversed for the reasons set forth below.

Prior to discussing the rejections of record, a brief explanation of the invention as set forth in claim 1 and its advantages over the prior art is considered warranted. With reference to page 3 lines 21-27 of the specification, the instant invention is directed to the handling of refund requests during an online commercial transaction. That is, in order to encourage the use of online transactions, particularly where small cost items "micropayments" are involved, it is desirable to make the obtaining of a refund request as easy as possible on the buyer (essentially upon request). However, the online system must be robust enough to detect individual entities that are abusing the refund system. Accordingly, claim 1 is not simply directed to providing buyers with an easy refund mechanism but is also directed to the tracking of the refund activity to ensure that abusers of the system are easily identifiable.

The invention of claim 1 accomplishes the above by providing a refund account in addition to a buyer vault at the payment computer. Accordingly, when the

payment computer receives a request for a refund from the buyer computer, the cost associated with the refund request is credited to the buyer's vault. At the same time, the same cost is maintained in the buyer's refund account. The refund account is available to be used in the identification of refund abusers.

Rose is directed to a transaction system that controls the ordering and payment of goods between a buyer 20 and a seller 28 over a communication channel such as the Internet. The invention of Rose is directed to the payment system 10. Payment system 10, however, doesn't perform any accounting but is simply hardware and software that ensures that confirmation from the buyer 20 is received prior to the payment system 10 forwarding a seller 28 request for payment to a conventional credit card system 115, 117, and 30. Rose does not teach or suggest the claimed steps of crediting a vault at a payment computer with a refund request amount while at the same time accounting for the refund request amount in a refund account at the payment computer.

The Examiner submits that Rose teaches the creating of the claimed refund account at a payment computer and relies upon col. 3, lines 38-43; col. 5, lines 25-30, and col. 6 lines 19-21 and 33-37 of Rose in support of this position. However, it is submitted that nothing in Rose, including the aforementioned sections support the Examiner's position.

Regarding col. 3 lines 38-43, this section only refers to the financial settlement system 30 which is a conventional credit card system. The acquirer 34 is the seller's bank which requests payment from the credit card issuer bank 32. The issuer 32 sends the conventional monthly statement and credit card bills to the buyer. Therefore, this section does not address the establishment of the claimed refund account for the buyer and is not even directed to a vault having buyer funds therein. The buyer sends payment to the issuer bank 32 which forwards the payment to the acquirer bank 34.

Col. 5 lines 25-30 also does not discuss the establishment of a buyer vault or the claimed refund account. This section only states that buyer accounts 100 can be established at the payment system 10. However, these accounts 100 (shown in Figure 4) are not vaults or any type of accounting system. The account 100 is simply

a way of identifying the buyer at the system 10. The account 100 includes a pay-in selection 108. The pay-in selection 108 identifies how payment will be made which, as discussed at col. 5 lines 62-64, is typically done using the conventional credit card system 30.

Col. 6 lines 19-21 and 33-37 discuss the role of a conventional seller's agent 115 who performs the credit card authorizations and chargebacks. The chargeback is simply a refund credit applied to the credit card account that shows up as a debit on the monthly statement. The applicants are not claiming they are the first to establish giving refunds. What is being claimed is the establishment of a refund account that can track the total amount of all buyer refunds over time in order to identify potential refund abusers. This section of Rose does not teach such a refund tracking mechanism.

Despite the above, the Examiner then admits that Rose fails to teach or suggest "a segregated refund account " but takes Official Notice that this feature is old and well known in the e-commerce and/or retail art. This position is respectfully traversed. In accordance with MPEP 2144.03 "The examiner may take official notice of facts outside the record which are capable of instant and unquestionable demonstration as being 'well known' in the art" (emphasis added). Further, it is stated "If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position." The Applicants hereby traverse the Examiner's position. The Applicants themselves are very familiar with online transaction systems and are not aware of the claimed refund tracking mechanism. This in and of itself shows that the Examiner's position that the claimed refund account is not capable of instant and unquestionable demonstration as being "well-known." Accordingly, Applicants request that the Examiner provide a reference showing the claimed refund account method.

Alternatively, if the Examiner is relying on facts within his own personal knowledge concerning as to what is well-known, the Applicants request that the Examiner submit an affidavit as required by MPEP 2144.03 to support his position.

In discussing step F) of claim 1, the Examiner once again refers to col. 6 lines 19-20 of Rose, which as previously discussed, does not teach the claimed refund

account. The Examiner also oversimplifies what is being claimed by stating that it is known how to credit an account. However, what is being claimed is the tracking of refund amounts in a refund account in addition to crediting the vault.

In traversing claim 2, the Examiner states that Rose fails to teach accounting for the cost of multiple refund requests in the refund. The Examiner takes Official Notice of this element. In response, the Applicants submit that this feature ensures that a buyer who abuses the refund mechanism can be easily detected. It is neither taught nor suggested by any of the applied references and the Applicants traverse the Official Notice position of the Examiner for the reasons set forth above. Once again, col. 6 lines 19-20 of Rose provides no support for the position that the claimed refund mechanism tracking method is known. Further, the Examiner does not address the part of the claim that states that the vault is rendered inactive once a threshold value in the refund account is exceeded. If the Examiner's position is that this is also well known in the art, the Applicants request that a reference in support of such position be provided.

Regarding claim 7, the Examiner takes Official Notice that the elements of this claim are well known. Once again the Applicants traverse this position and request that the Examiner produce a reference. Also, claim 7 looks at the number of times a refund request has been made and inhibits a refund from occurring if the buyer has exceeded a threshold number of refund requests. This claim focuses on the number of requests versus the value of the refund requests. Rose never discusses this feature.

Claim 8 adds a time element to the refund account and provides for the resetting of the refund account current value if the threshold value has not been exceeded over a predetermined period of time. This feature is not taught or suggested by Rose and the Examiner's position of Official Notice is traversed. A reference teaching this feature should be provided by the Examiner in support of his position.

The remaining dependent claims 3, 4, 5, 6, 9, 10, and 11 are all considered patentable based on their dependency from claim 1. Further, each of these claims

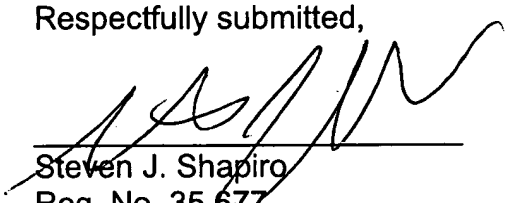
has been rejected based on the Examiner taking Official Notice. Applicants submit that the taking of Official Notice in each case is not appropriate.

Regarding independent claim 12, the Examiner takes the same position that he did with respect to claim 1. Accordingly, the arguments set forth above in connection with claim 1 are equally applicable to claim 12.

In summary, it is Applicants' position that the Examiner has attempted to take "Official Notice" that the entire claimed invention is well known. This position is not supported by law. When Official Notice is taken by the Examiner "The facts so noticed serve to 'fill the gaps' which might exist in the evidentiary showing" and should not comprise the principle evidence upon which a rejection is based. *In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418, 420-421 (CCPA 1970).* In the instant case, the Examiner's entire position is based on Official Notice. Accordingly, the Applicants respectfully request that the Examiner provide references that support his position of the obviousness of the claimed invention.

It is submitted that the application stands in condition for allowance. Reconsideration of the rejections is respectfully requested and an early notice of allowance earnestly solicited. If the examiner has any questions, please contact the undersigned at the number below.

Respectfully submitted,



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Version with Markings to Show Changes Made

In the specification:

First full paragraph on page 9, bridging onto page 10

A description of the operation of the online payment system 100 will now be described with reference to Figures 1-2 and 5-6. At step 500 a registered merchant 106 decides to place an item of digital content (article, music, picture, movie, other data) for sale utilizing the online payment system 100. The merchant 106 uses the encoder utility software 150 provided by the payment broker 118 to encrypt the digital content of the item for sale by first calculating a unique product key "K_{prod}" for the item (step 502). K_{prod} is derived by using the encoder utility software 150 to create a secure one way hash of data known to the merchant such as a product ID, the merchant secret key "K_m", and a randomly generated number. K_{prod} is then used by the encoder utility software 150 to encrypt the digital content of the item using a known encryption algorithm (step 504). Once the item has been encoded, the encoder utility software 150 creates the file 180 to include a length identifier 200, a signed header 202, a product preview 204, and the digitally encoded content 206 (step 506). The length 200 is used to identify the length of the header 202 portion of the file 180. The significance of this field is that it allows the plug-in 178 to know how much information needs to be read in ~~oder~~order to display the header 202 while concurrently downloading the data for the product preview 204 and the encrypted digital content 206. Alternatively, the file length 200 can be used by the plug-in 178 to only download the header 202 and present that information (required to complete the sale) on display 123. The remainder of file 180 (product preview 204 and encrypted digital content 206) are respectively downloaded only if the buyer chooses to view the product preview 206 or buy the digital content item. Accordingly, second and third file lengths can be included as part of the digital file 180 to respectively identify to the plug-in 178 the respective lengths of the product preview 204 and the digital encrypted file 206. These file lengths allow the product preview data 204 to be downloaded and displayed upon request by the buyer without requiring the encrypted

digital content file 206 to be downloaded until a buy decision is made by the buyer. Thus, using the file lengths to delay the downloading of various portions of file 180 greatly improves network performance since selective portions of the file 180 are only downloaded upon command.

Paragraph starting on page 14, bridging onto page 15.

Subsequent to the download of the receipt and the product key by the by the buyer computer 122, the plug-in 178 via the browser 176 displays a post sales dialogue box on display 123 (step 800). The post sales dialogue box queries the user as to whether 1) they wish a refund, 2) they wish to take a survey (with an offer to be reimbursed for their time), and 3) the transaction is complete. If the buyer selects a request for refund, a new dialogue box appears prompting the user to select from among a predetermined number of reasons as to why they desire a refund or to enter their own reason (step 810). This information along with the receipt for the item is signed with the private ~~hey~~key of the buyer K_{BV} and sent to the broker computer 132 (step 820). The broker computer 132 utilizes the buyer's public key K_{BU} to obtain the refund information and the receipt (step 822) and checks to ensure that 1) the buyer's account is active, 2) the refund request is for a previously purchased item and 3) a refund has not previously been made for that item (step 824). Additionally, the broker computer 132 ensures that any preset period of time associated with how long after purchase a request for refund can be made has not been exceeded (step 824). If any of the above checks fail the buyer 102 is advised that a refund will not be given (step 826). On the other hand, if the checks are all positive, the broker computer 132 debits the refund amount from a dispute account associated with the buyer 102. That is, for each buyer, in addition to their vault 170 there is a dispute account established at the broker computer 132. The dispute account has a threshold value associated with it that is debited each time a refund is given to a buyer. Thus, for a given refund the dispute account and the merchant's account 162 for the merchant 106 selling the particular item are debited by the refund amount (step 828). The money debited from the merchant's account is transferred to

the buyer's vault 170 (step 830) and the buyer receives a message on display 123 that the vault has been credited (step 832). However, if the dispute account is decremented to zero or a negative (step 829), a flag associated with the buyer's vault 170 is set from an active status to an inactive status (step 834). At this point in time it is determined if the credit card accepts refunds (step 835), and if it does, any monies in the buyer's vault 170 are refunded to the buyer's default credit card (step 836). If the default credit card does not accept a refund, a message is sent to a general logging device so that a manual refund can be issued (step 838). The buyer 102 then receives a message indicating that their vault is inactive and their remaining money will be credited to the default credit card or returned manually as the case may be (step 840). It is also possible to establish a time limit associated with the threshold value of the dispute account. That is, if the threshold value is not exceeded over a specified period of time, the dispute account is reset an initial value. Moreover, an additional counter can be added at the broker computer 132 for each buyer 102 that keeps track of the number of times a refund has been requested. If the number of requests exceeds a predetermined number, the buyer's vault is rendered inactive. Additionally, while the above described embodiment described the refund account as a descending register which starts at the threshold value and is debited down to zero, one skilled in the art will recognize that the refund account could be an ascending register which adds the refund amounts and inactivates the buyer's vault 170 when the predetermined threshold value is met.

Second full paragraph, page16, bridging onto page 17.

In the above described embodiment, the encoded digital content 206 is placed on the web site 181 in encoded form (static encoding). A benefit of static encoding is that no software is required at the host web site 181. Thus, static encoding is good for items that will have no content change such as previously written articles or musical recordings. However, if the item for sale is constantly changing data, such as stock information, the static encoding method is not efficient. In this situation, the encryption utility software 150 would be placed at the host web site 126 and the

digital content to be purchased would be encrypted dynamically prior to each download of a file 180 to a buyer 102. Thus, for each buyer request for a digital content item a new product key K_{prod} is generated. This provides increased security since if K_{prod} is compromised for a single download of a file 180, only that specifically downloaded file 180 is compromised. In the static situation where there is a single K_{prod} associated with a file 180, if K_{prod} is compromised any download of the file 180 is potentially compromised. The disadvantage of the dynamic encoding model as compared to static encoding is that it creates a greater burden on the host server 126. The instant invention recognizes the advantages of static and dynamic encoding and in one embodiment contemplates a web site host 126 that has statically encoded digital content which is of a low value and a stable nature and also provides dynamic encoding of rapidly changing digital content and/or high value digital content items. Since the ultimate file structure 180 resulting from either the dynamic or static encoding is the same, the plug-in 178 can effectively perform its designed functions in either situation.

Second full paragraph, page 19

An alternative method of providing the multiple copy/distribution corporate rate structure is to designate, in the buyer database 168, a designated rate for multiple copies (i.e. ~~,~~50) that is automatically invoked any time the particular buyer 102 purchases an item. In this situation the buyer 102 would be charged a cost associated with the initial cost of the item as well as the premium charged for the right to make/distribute the designated multiple copies. This feature also permits the customizing of discounts to individual corporations.